

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:13-cv-146**

CAPITAL BANK, N.A.,)	
)	
Plaintiff,)	
)	
vs.)	
)	
BRIGHT'S CREEK LOT 71, LLC and SAMUEL LANCELOTTA,)	ORDER
)	
Defendants.)	
)	

THIS MATTER is before the Court *sua sponte* to ascertain subject matter jurisdiction. The Defendant Bright's Creek Lot 71, LLC and the Defendant Samuel Lancelotta have removed this action from state court based upon diversity jurisdiction (#1-1). In the Complaint, Plaintiff alleges that Defendant Bright's Creek Lot 71, LLC is a limited liability company duly organized under the laws of the state of Maryland and doing business in the state of North Carolina.

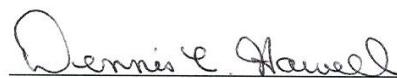
Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4th Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997), *certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28

U.S.C. §1447(c) (“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.”). A limited liability company is a citizen of all states in which its constituent members are citizens. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). Defendant Bright’s Creek Lot 71, LLC has not yet disclosed whether it has a constituent member or partner who is a citizen of North Carolina and therefore will be required to do so.

ORDER

IT IS, THEREFORE, ORDERED that on or before August 8, 2013, the Defendant Bright’s Creek Lot 71, LLC shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of the above referenced LLC, and for any such constituent members or partner that is a limited liability company or partnerships shall identify the citizenships of the respective constituent members or partners until all such constituents are fully identified.

Signed: July 18, 2013



Dennis L. Howell
United States Magistrate Judge

